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13 NAZOMI COMMUNICATIONS, INC.

14
15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 Nazomi Communications, Inc.,

18 Plaintiff,

19 v.

20 Nokia Corporation, et al.

21 Defendants.
22

Case No. 5:10-cv-4686-JF

**JOINT CIVIL L.R. 3-12
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

23 In accordance with Civil Local Rules 3-12 and 7-11, Plaintiff Nazomi
24 Communications, Inc. ("Nazomi") and Defendants, Samsung Telecommunications
25 America, LLC, Samsung Electronics Co., Ltd, Samsung Electronics America, Inc.,
26 LG Electronics, Inc., LG Electronics U.S.A., Inc., Kyocera Corporation, Kyocera
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28

Nazomi Communications vs. Nokia, et al.
Case No. 5:10-cv-4686-JF

1 International, Inc., Kyocera Communications, Inc., and Kyocera America, Inc.
 2 (collectively “the Undersigned Parties”) submit this Administrative Motion to
 3 request that the Court consider whether the present case, *Nazomi Communications,*
 4 *Inc. v. Nokia Corporation, et al.*, Case No. 5:10-cv-4686-JF (“*Nazomi I*”) should be
 5 related to a separate matter pending before Judge Breyer, *Nazomi Communications,*
 6 *Inc. v. Samsung Telecommunications, Inc. et al.*, Case No. 3:10-cv-05545 (“*Nazomi*
 7 *II*”).¹

10 Under Civil Local Rule 3-12(a), matters are related if: (1) they involve
 11 substantially the same parties, property, transaction or event; and (2) adjudication
 12 by different judges will result in unduly burdensome duplication of labor and
 13 expense or conflicting results. *See* L.R. 3-12(a). Applied here, evaluation of
 14 *Nazomi II* in view of *Nazomi I* compels the conclusion that both prongs of the L.R.
 15 3-12(a) test are met and that *Nazomi II* should be deemed related to *Nazomi I*.

18 First, there is substantial overlap in the property and technology at issue in
 19 the two cases because both patents and the technology at issue in *Nazomi I* are also
 20 at issue in *Nazomi II*. Second, for the same reasons detailed in *Nazomi* and ARM’s

23 ¹ Counsel for the HTC Defendants (“HTC”) has authorized Nazomi to report
 24 the following: HTC neither opposes nor joins this Motion. HTC
 25 notes that Plaintiff Nazomi’s allegations against HTC are substantially different, in
 26 scope and in kind, from those asserted against the other Defendants. For example,
 27 only one of the three patents at issue in the *Samsung* case has been asserted against
 28 HTC, and none of the patents at issue in the *Nokia* case have been asserted against
 HTC. Therefore, HTC expressly reserves the right to seek separate treatment from
 this Court as appropriate during the course of this case. In particular, HTC may
 seek separate treatment regarding the scheduling and the conduct of various
 proceedings together with other Defendants.

1 prior motion to relate *Nazomi I* to an earlier lawsuit between Nazomi and ARM
2 (*Nazomi Communications, Inc. v. ARM Holdings PLC, et al.*, Case No. 5:02-cv-
3 02521-JF), reassignment of *Nazomi II* to Judge Fogel will both further judicial
4 efficiency and avoid inconsistent judgments. *See* Exhibit A.²

6 Additionally, in transferring *Nazomi II* from the Central District of
7 California, Judge Carter expressly noted that *Nazomi II* is related to *Nazomi I* and
8 contemplated that *Nazomi II*, like *Nazomi I*, be adjudicated by Judge Fogel. *See*
9 Exhibit A at Ex. 1, page 5 (transferring *Nazomi I* to this District to allow for
10 eventual intra-district transfer to Judge Fogel); Exhibit B (stating that *Nazomi II* is
11 related to *Nazomi I* and ordering parties to show cause as to why *Nazomi II* should
12 not be transferred for the same reasons as *Nazomi I*); Exhibit C (transferring
13 *Nazomi II* to this District for the same reasons as *Nazomi I*).

17 For the foregoing reasons, the Undersigned Parties request that the Court
18 enter the accompanying proposed Order relating *Nazomi II* to *Nazomi I*.
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27 ² The Court granted Nazomi and ARM's joint motion to relate *Nazomi I* to the prior
28 Nazomi/ARM litigation on November 10, 2010. *See* Docket No. 230.

1 Dated: February 28, 2011

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13 Dated: February 28, 2011

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12 **ECF CERTIFICATION**

13 Pursuant to General Order No. 45, § X.B., the filing attorney attests that he
14 has obtained concurrence regarding the filing of this document from the signatories
15 to the document.

16 DATED: February 28, 2011

17 BY: /s/ Matthew Durell